

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

CUPP CYBERSECURITY, LLC and  
CUPP COMPUTING AS,

Plaintiffs,

v.

TREND MICRO, INC.,  
TREND MICRO AMERICA, INC., and  
TREND MICRO INCORPORATED,

Defendants.

Case No. 3:18-cv-01251-M

(Consolidated with Civil Action No. 3:20-cv-03206-M)

**THE TREND MICRO DEFENDANTS' MOTION TO EXPEDITE BRIEFING  
REGARDING THEIR MOTION TO PARTIALLY STAY THE CASE**

Defendants Trend Micro, Inc., Trend Micro America, Inc., and Trend Micro Incorporated (collectively, "Trend Micro") respectfully file this motion to expedite the briefing schedule regarding their contemporaneously filed motion to partially stay the case with respect to U.S. Patent Nos. 8,365,272 and 9,756,079.

Trend Micro requests an expedited briefing schedule for two reasons. First, jury selection is scheduled for February 3rd and the parties are preparing for trial. ECF No. 318. Resolution of this motion will provide important clarity as to whether the '272 and '079 patents will be at issue at trial. As described in Trend Micro's motion to partially stay the case, the '272 and '079 patents raise many issues related to non-infringement and invalidity that are specific to those two patents. Thus, expedited resolution of this motion will potentially help the parties avoid unnecessary trial preparation regarding these two patents. Second, the parties previously briefed a substantially similar motion—Trend Micro's previous motion to partially stay the case

with respect to two other patents that were subject to *inter partes* review (the '344 and '632 patents). ECF No. 160. Many of the issues raised in Trend Micro's current motion are substantially identical to the issues raised in Trend Micro's previous motion, and the parties therefore already are familiar with those issues.

Trend Micro therefore proposes the following expedited briefing schedule:

Brief	Deadline
CUPP's Response to Trend Micro's Motion to Partially Stay the Case	November 9, 2022
Trend Micro's Reply Brief	November 16, 2022

The expedited briefing schedule gives CUPP one week to respond to Trend Micro's motion and would pose no prejudice to CUPP because the parties previously briefed substantially identical issues. And CUPP would benefit from an expedited resolution of Trend Micro's motion because resolution of the motion will provide clarity regarding which of the eight currently asserted patents remain at issue for trial.

For the foregoing reasons, Trend Micro respectfully requests the Court grant this motion.

Dated: November 1, 2022

Respectfully submitted,

By: /s/ Robert Buergi

Mark D. Fowler (*pro hac vice*)

Robert Buergi (*pro hac vice*)

DLA Piper LLP (US)

2000 University Avenue

East Palo Alto, CA 94303

Tel: 650.833.2000

Fax: 650.833.2001

mark.fowler@dlapiper.com

robert.buergi@dlapiper.com

Kathryn Riley Grasso (*pro hac vice*)

DLA Piper LLP (US)

500 Eighth Street, NW

Washington, DC 20004  
Tel: 202.799.4782  
Fax: 202.799.5022  
kathryn.riley@dlapiper.com

C. Michael Moore (State Bar No. 14323600)  
DLA Piper LLP (US)  
1900 N. Pearl Street, Suite 2200  
Dallas, TX 75201  
Tel: 214.743.4500  
Fax: 214.743.4545  
mike.moore@dlapiper.com

*Attorneys for Defendants Trend Micro  
Incorporated, Trend Micro America, Inc.,  
and Trend Micro Incorporated*

**CERTIFICATE OF CONFERENCE**

Pursuant to Local Civil Rule 7.1, counsel for Trend Micro has conferred with CUPP's counsel and confirmed that CUPP opposes this motion.

/s/ Robert Buergi  
Robert Buergi

**CERTIFICATE OF SERVICE**

I hereby certify that on November 1, 2022, a true and correct copy of the foregoing document was filed electronically using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Robert Buergi  
Robert Buergi